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October 18, 2016

VIA ECF
Hon. Katherine B. Forrest
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: Dr. Eubulus J. Kerr, III v. John Thomas Financial, et al, Case 14-cv-9168 (KBF)

Dear Judge Forrest:

As the Court is aware, this firm is litigation counsel for CKR Law, LLP which has previously acted for and on behalf of, *inter alia*, Anastasios Belesis and his wife, non-party Tabitha Belesis, in this case. Subject to the limitations and reservations set forth therein, submissions were also made on behalf of CKR Law and TomTab LLC on October 17.

Reference is made to this Court's October 17 Order (Docket No. 172; the "Order") which, *inter alia*, directed that: "By Tuesday, October 18, 2016, at 2 p.m. the parties shall submit to the Court a briefing and submission schedule for the October 28, 2016, hearing."

In light of the Court's Order of October 17 and the Complaint filed last evening (Docket No. 173), CKR Law and, by extension, the undersigned have been reviewing and continue to review the professional propriety and permissibility of our respective and collective continuation as counsel for any person, firm or entity in this case, including the likelihood of needing to withdraw as counsel.

That being the case, and with all respect for the Court, counsel and the parties, we respectfully submit and maintain that unless and until that review is completed – which we expect within the next day or less – we do not believe it appropriate for either firm to proceed in this matter in any manner on behalf of any party or non-party. We are thus unable to address the Court's Order that a briefing schedule be agreed and reported, or, for that matter, concerning any continuing authority to act. We should note that we are both authorized, and satisfied of the propriety of such off-the-record discussions as may be necessary, to conclude the conversations about a possible resolution I began with Mr. Lax as we left Court yesterday. We have not heard back, however, in response.

We are also further concerned, and welcome this Court's guidance following filing of the Complaint on the authority of CKR Law as a named party to proceed with an *ex parte* submission to the Court which we understand is generally permissible only for a non-party.

We regret this advice but believe we are reacting as we are required to the events as they have developed. We will advise the Court and counsel of the outcome of our review as soon as possible.

Respectfully,

S/ Lawrence E. Tofel
Lawrence E. Tofel

Cc: All counsel, via ECF
Roy Justice, Esq., via email

Ordered

The Court requires counsel to inform their clients within one day of this order of the need to retain other counsel to meet court-ordered deadlines or to be deemed "pro se" in these proceedings. The court understands Mr. Tofel's position but litigation does not come to a halt because of such issues. The hearing on Oct. 28 shall proceed. Any additional submissions in support of any party's position shall be filed not later than 10/25/16.

KBF
USDJ

10/19/16